

भारत का राजपत्र

The Gazette of India

विस्तृत

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

वा. 12]

नई दिल्ली, शुक्रवार, अप्रैल 7, 1989/चैत्र 17, 1911
No. 12] NEW DELHI, FRIDAY, APRIL 7, 1989/CHAITRA 17, 1911

इस भाग में भिन्न पृष्ठ संख्या वाली है जिससे कि यह अलग संकलन
की रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 7th April, 1989:—

BILL NO. 4 OF 1989

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1989.

(2) It shall come into force at once.

Short title
and
commencement.

2. In article 316 of the Constitution, in clause (1), for the words "by the President," the words "by the President giving due representation to each State," shall be substituted.

Amend-
ment of
article
316.

STATEMENT OF OBJECTS AND REASONS

Article 316 of the Constitution provides that the President shall appoint the Chairman and other members of the Union Public Service Commission and there is no bar on the President to appoint the Chairman and all the other members from amongst persons belonging to a few States only. Therefore, it is proposed to amend article 316(1) of the Constitution in order to ensure that proper representation is given to all the States in regard to appointment of the Chairman and other members of the Union Public Service Commission.

Hence this Bill.

NEW DELHI:

V. S. KRISHNA IYER

October 2, 1988.

BILL No. 1 OF 1989

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1989.

Short title
and
com-
mence-
ment.

(2) It shall come into force at once.

2. In article 316 of the Constitution, in clause (2), for the words "six years", the word "four years" shall be substituted.

Amend-
ment of
article
316.

STATEMENT OF OBJECTS AND REASONS

The term of Legislative Assemblies and the House of the People is only five years and the term of office of the President also is five years. Therefore, it is in the fitness of the things that the term of a member of a Public Service Commission be restricted to four years instead of six years. In order to make best selections and to give a chance to eminent personalities available in the country, the term of the member of the Public Service Commission should be reduced to four years.

Hence this Bill.

NEW DELHI;

November 1, 1988.

V. S. KRISHNA IYER

BILL NO. 7 OF 1989

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1989.

(2) It shall come into force at once.

Short title and commencement.

2. In article 198 of the Constitution,—

Amendment of article 198.

(i) in clause (2), for the words "fourteen days", the words "seven days" shall be substituted; and

(ii) in clause (5), for the words "fourteen days", the words "seven days" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

At present the Money Bill passed by the Legislative Assembly of a State is transmitted to the Legislative Council in such States where the Legislative Council exists and the Legislative Council is required, within a period of fourteen days from the date of receipt of the Bill, to return it to the Legislative Assembly with its recommendations and the Legislative Assembly thereupon either accepts or rejects all or any of the recommendations of the Legislative Council and if the Legislative Council fails to return the same to the Legislative Assembly within fourteen days, it is deemed to have been passed by both the Houses in the form in which it was passed by the Legislative Assembly.

Many times the passing of Money Bills is delayed by the Legislative Council taking advantage of the long duration of fourteen days within which it has to return the Bill to the Legislative Assembly. In such circumstances, the Government is put in a different situation. Moreover, in order to satisfy the statutory requirement of getting the Bill passed by Legislative Council also, the Legislative Assembly has to hurry the process of passing the Bill and thereby, sometimes, many important demands for grants are not discussed in the Legislative Assembly.

Therefore, it is proposed to amend article 198 of the Constitution with a view to provide that the Legislative Council shall return the Money Bill to the Legislative Assembly with or without its recommendations within a period of seven days.

Hence this Bill.

NEW DELHI;
February 5, 1989,

V. S. KRISHNA IYER.

BILL NO. 12 OF 1989

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1989.

Short title and commencement.

(2) It shall come into force at once.

2. In article 123 of the Constitution, in clause (1), the following proviso shall be added at the end, namely:—

Amendment of article 123.

"Provided that no Ordinance shall be promulgated by the President after he has summoned the Houses of Parliament under clause (1) of article 85."

3. In article 213 of the Constitution, in clause (1), after the existing proviso, the following proviso shall be added, namely:—

Amendment of article 213.

"Provided further that no Ordinance shall be promulgated by the Governor after he has summoned the House or each House of the Legislature of a State under clause (1) of article 174".

STATEMENT OF OBJECTS AND REASONS

At present Ordinances can be promulgated by the President during the recess of Parliament. Many times, Ordinances are promulgated during the period between the issue of orders summoning the Parliament and the actual commencement of the session. It is proposed to amend article 123 of the Constitution to avoid promulgation of Ordinances after the President has issued orders summoning the Houses of Parliament. In the States also, many times Ordinances are promulgated during the period between the issue of orders summoning the House or Houses of the Legislature of a State and the actual commencement of the session of the Legislature. Therefore, it is also proposed to amend article 213 to avoid Ordinances promulgated by the Governor after issue of orders for summoning the Houses of the Legislature.

Hence this Bill.

NEW DELHI;

February 9, 1989.

V. S. KRISHNA IYER

BILL NO. 19 OF 1989

A Bill further to amend the All-India Services Act, 1951.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. (1) This Act may be called the All-India Services (Amendment) Act, 1989.

Short title and commencement.

(2) It shall come into force at once.

61 of 1951.

2. After section 2A of the All India Services Act, 1951, the following sections shall be inserted, namely:—

Insertion of new sections 2B to 2L.

“2B. It shall be the special responsibility and duty of a member of an all-India Service to ensure that the plans or projects or any development work under his jurisdiction or charge or administrative control or for the execution or completion or carrying out of which he is responsible in any way, are executed or completed or carried out efficiently, economically and within the scheduled time.

Special responsibility and duty of an officer towards plans or projects, etc.

Evaluation of performance of officers and preparation of annual performance report.

2C. Notwithstanding anything in this Act, at the end of every year, the performance of every member of an all India Service shall be evaluated, with particular reference to the execution or carrying out of the specific plans or projects or development works under his jurisdiction or in his charge or administrative control or for the execution or carrying out of which he is responsible in any way, and a performance report prepared.

Annual resume of work of an officer to form part of confidential record.

2D. For the purpose of evaluating the performance of a member of an all-India Service under section 2C, the officer to be reported upon shall submit to the reporting officer, at the end of each year, a brief resume, not exceeding three hundred words, of the work done by him during the year under review, bringing out his special achievement, if any, and the resume so submitted shall form part of the confidential record of the officer.

Manner of preparation of performance report and special mention of any delay due to negligence, etc.

2E. (1) The reporting officer shall take due note of the resume while preparing the performance report and shall, after making his own assessment of and comments on the work of the officer, submit the report along with the entire record to the next higher officer, namely, the reviewing officer who shall add his own comments, if any.

(2) The reporting officer shall make a special mention in the performance report of any delay or set-back in the execution or carrying out of the specific plans, projects or development works under the charge or administrative control of the officer reported upon due to the negligence or inefficiency of the officer reported upon.

(3) The annual performance reports shall form part of the confidential record of the officer.

Action against an officer guilty of negligence or inefficiency.

2F. Where as a result of annual evaluation of the performance of an officer, it is found that the work under his charge has suffered or has been delayed due to the negligence or inefficiency of the officer, he shall be called upon to explain such delay and negligence or inefficiency and suitable action against the officer shall be taken if found guilty.

Annual performance report to be basis for promotion.

2G. The annual performance reports shall form the basis while considering a member of an all-India Service for promotion to higher post or grade.

2H. (1) A special evaluation of the performance of every member of an all-India Service shall be made after the completion of every five years of his service and a special report shall be submitted, within three months thereof, for the purpose of considering his suitability for retention in the service.

Special evaluation for retention in service.

(2) The annual performance reports for the five years under review shall be taken into consideration for the purpose of special evaluation under sub-section (1).

2-I. If a member of an all-India Service earns an adverse report twice consecutively, as a result of special evaluation under section 2H, his services shall be terminated.”.

Termination of service.

STATEMENT OF OBJECTS AND REASONS

Removal of poverty and attainment of economic self-reliance are the two major tasks before the country. After independence, the country embarked upon a programme of development weighed in favour of basic industries, agriculture and social services. But, poverty is still a major problem. Large number of our people are still living below the poverty level. Our planning, in fact, has failed to make a major dent on poverty. One reason for this failure has been the inadequate rate of growth. The actual performance of the economy in the various Five Year Plans shows a substantial shortfall in the achievement of targets fixed in various sectors of economy. One of the main reasons for shortfall in achieving the targets has been the faulty and leisurely implementation of the Plans and execution of programmes and projects. In majority of cases, the execution of projects and development works and completion of works under public undertakings have taken a much longer period than envisaged. The compulsions of the present situation make it necessary to accelerate the pace of implementation in the current Plan.

To accelerate the pace of progress and to achieve the Plan targets, it is necessary that administrators or the persons responsible for implementation of projects should be made accountable for results.

Officers of all-India Services, particularly the officers of the Indian Administrative Service and the Indian Service of Engineers, has been entrusted, in one way or other, the task of implementation of our Plans. But, the pace of implementation of plans and management of public sector undertakings has shown that much more was expected of these officers. In fact, they should be made accountable for the results, if at all the implementation of Plans and rate of growth is to be accelerated. For this purpose, it is necessary that a provision is made in the all-India Services Act, 1951 for yearly evaluation of performance of every member of an all-India Service in relation to the execution or carrying out of specific plans, projects or development works under his charge or with which he is associated in an executive capacity and for fixing his responsibility for any delay or set-back in the execution of plans or projects or for any mismanagement, etc. due to his negligence or inefficiency.

The Administrative Reforms Commission in its Report on Personnel Administration presented to the Government on the 18th April, 1969 had recommended for evaluation of the performance of officers and, with that object in view, had suggested for preparation of annual performance report of every officer after taking due note of the resume to be submitted by the officer whose performance is under review, at the end of each year giving a brief account of work done by him and bringing out his special achievements, if any, during that year. It was recommended that the annual performance reports should form part of the confidential record of the officer.

The annual performance reports should be given due weight while considering a member of an all-India Service for promotion to a higher

post. Special evaluation should be made after every five years keeping in view the annual performance reports and if an officer earns an adverse report twice consecutively as a result of such special evaluation, his services should be terminated. Such a provision would go a long way in accelerating the implementation of Plans and achieving a higher rate of growth of our economy.

Hence this Bill.

NEW DELHI;
February 15, 1989.

MADHU DANDAVATE.

BILL NO. 13 OF 1989

A Bill further to amend the Indian Medicine Central Council Act, 1970.

BE it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Indian Medicine Central Council (Amendment) Act, 1989.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2

2. In section 2 of the Indian Medicine Central Council Act, 1970 (hereinafter referred to as the principal Act), in sub-section (1), after clause (e), the following clause shall be inserted, namely:—

48 of 1970.

‘(ee) “Integrated medicine” means conjoint study, training and practice in Indian medicine and modern scientific medicine in all its branches including surgery and obstetrics;’.

Amend-
ment of
section 3.

3. In section 3 of the principal Act, in clause (a) of sub-section (1), after the word “persons”, the words “possessing a recognised medical qualification and” shall be inserted.

4. In section 14 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Only such medical qualifications which are granted after not less than four years' regular institutional training including clinical training in attached hospital shall be included in the Second Schedule.”.

5. In section 17 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Nothing contained in any law for the time being in force shall affect the rights of the practitioners qualified in Integrated medicine including the right of practising modern scientific medicine in all its branches including surgery and obstetrics in any part of India.”.

6. For the Second Schedule to the principal Act, the following Schedule shall be substituted, namely:—

Amend-
ment of
section
14.

Amend-
ment of
section 17.

Substi-
tution of
new
Sche-
dule for
Second
Schedule.

“THE SECOND SCHEDULE

(See section 14)

Part I: Qualifications in Integrated medicine.

Part II: Qualifications other than the qualifications in Integrated medicine.”.

STATEMENT OF OBJECTS AND REASONS

There are about fifty thousand practitioners of Integrated medicine in India who have undergone regular institutional course of training for four to six years of statutory Universities or State Boards or Faculties after School Leaving or Intermediate Science Examinations. The course consists of training in Ayurvedic as well as modern systems of medicine.

At present the practitioners are grouped in the Second Schedule to the Indian Medicine Central Council Act, 1970 along with the practitioners with pure Ayurvedic qualifications and others who had no training or had sub-standard training. An assurance was given on the floor of the Lok Sabha by Government on December 10, 1970 that these practitioners will be put in separate parts of the Second Schedule under the rule making power. As it is not permissible to amend the Schedule to the Act under the rule making power, it is felt necessary to amend the Act itself for the purpose.

In the constitution of the Central Council of Indian Medicine a provision has been made that RMPs enrolled in the State Register of Indian Medicine merely on experience basis, though not possessing any recognised medical qualification, shall be the voters in the election to the Central Council of Indian Medicine. Since the Council has to lay down and maintain high standards of training and practice of Indian Systems of Medicine it is essential that only such practitioners who possess a recognised medical qualification should be the voters in the election to the CCIM. Hence section 3(1) (a) of the Act needs amendment.

There are no norms prescribed for inclusion of a medical qualification in the Second Schedule as a result of which many sub-standard and fake qualifications have been included in the Second Schedule. The Central Council of Health in 1976 has recommended that only such qualifications which are granted after institutionalised teaching and training of not less than 4 years duration in recognised colleges, should be eligible for the rights and privileges envisaged in the Act and all sub-standard qualifications should be deleted from the Second Schedule. Proposed amendment to section 14 prescribes norms for inclusion of a medical qualification in the Second Schedule.

Hence this Bill.

NEW DELHI;
February 15, 1989.

MADHU DANDAVATE

BILL NO. 15 OF 1989

A Bill further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

- | | | |
|------------|---|--------------------------|
| 2 of 1974. | 1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1989. | Short title. |
| | 2. Section 107 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), shall be omitted. | Omission of section 107. |
| | 3. Section 109 of the principal Act shall be omitted. | Omission of section 109. |

STATEMENT OF OBJECTS AND REASONS

The Criminal Law Amendment Act, 1932 was a special repressive measure devised by the British imperialist Government in 1932 to suppress the freedom movement. It was then denounced by all nationalist leaders as a "black law" and a measure inconsistent with the principles of democracy and freedom. It was expected that after independence, the Government would take steps to repeal the Act or at least would allow it to remain on the statute book without making use of it in practice. Unfortunately, the Act has not only not been repealed but has often been used against the peoples' movement. Since the main provision of this Act puts an intolerable curb on civil liberty, it is necessary to remove it from the statute book.

MADHU DANDAVATE

NEW DELHI;

February 17, 1989.

BILL No. 14 OF 1989

A Bill to repeal the Criminal Law Amendment Act, 1832.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Criminal Law Amendment (Repeal) Act, 1989. Short title.

2. The Criminal Law Amendment Act, 1832 is hereby repealed. Repeal of Act 23 of 1932.

STATEMENT OF OBJECTS AND REASONS

The Criminal Law Amendment Act, 1932 was a special repressive measure devised by the British imperialist Government in 1932 to suppress the freedom movement. It was then denounced by all nationalist leaders as a "black law" and a measure inconsistent with the principles of democracy and freedom. It was expected that after independence, the Government would take steps to repeal the Act or at least would allow it to remain on the statute book without making use of it in practice. Unfortunately, the Act has not only not been repealed but has often been used against the peoples' movement. Since the main provision of this Act puts an intolerable curb on civil liberty, it is necessary to remove it from the statute book.

MADHU DANDAVATE

NEW DELHI;
February 17, 1989.

BILL NO. 23 OF 1989

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment Act, 1989).
2. After article 30 of the Constitution, the following article shall be inserted, namely:—

"31. All citizens shall have the right to a secure place to live and for that purpose the State shall guarantee to every citizen equitable access to the essential housing resources like land, building materials, water fuel as well as requisite technology, information and finance."

Short title.

Insertion of new article 31. Right to housing,

STATEMENT OF OBJECTS AND REASONS

Housing is a basic necessity of life, next only to food and clothing. According to the estimate of the National Building Organisation, housing shortage in 1981 was around 21 million units—16 million units in rural and 5 million units in urban areas. Based on the data, the Seventh Plan has placed the housing shortage in 1985 at 24.7 million units i.e. 18.8 million units in rural and 5.9 million units in urban areas. The increase in population between 1985 and 1990 is expected to generate roughly additional requirement of housing units to the extent of 16.2 million housing units, of which 12.4 million units will be in rural and 3.8 million units in urban areas.

It has, therefore, become necessary to make housing a fundamental right. "Housing" is not referred to here in its commodity or welfare sense but as a secure place to live with dignity for every individual. The implication of 'housing as a Fundamental Right' is not that the State must provide houses for all but rather the State must guarantee all people to gain equitable access to the essential housing resources.

Hence this Bill.

NEW DELHI;
February 24, 1989.

SHARAD DIGHE

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that all citizens shall have the right to a secure place to live and for that purpose the State shall guarantee to every citizen equitable access to the essential housing resources like land, building materials, etc. as well as necessary finance, information and technology. It will be the responsibility of the Central and State Governments to make available to every citizen the housing materials and finance, etc. The National Housing Bank has been recently set up by the Government with initial capital of rupees one hundred crores. The Central Government will have to increase the capital of the housing bank to rupees three hundred crores atleast to meet the financial requirements. The expenditure to be incurred by the State Governments on making the essential housing resources available to the citizens will be met by the respective State Governments from their consolidated funds. However, the Central Government will have to bear the expenditure to be incurred by the Union territory Administrations. The Central Government will also have to help the State Governments in carrying out the purposes of the Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. No exact estimate can be given for the present as the total requirement of housing is not known. Moreover, the houses will have to be provided in a phased manner. Therefore, in the first year of implementation of the provisions of the Bill, it is estimated that an expenditure of about rupees four hundred crores will have to be incurred. Thereafter, the per annum expenditure will go on decreasing.

The Bill is also likely to involve a non-recurring expenditure of about rupees fifty lakhs.

BILL No. 17 of 1989*A Bill further to amend the Constitution of India*

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1989.

Inser-
tion of
new
article
29A.

2. After article 29 of the Constitution, the following article shall be inserted, namely:—

Right to
free edu-
cation.

“29A. All children shall have the right to free education until they attain the age of eighteen years.

Explanation.—In this article, the expression ‘free education’ includes supply of text books and stationery and provision of hostel facilities, uniform, travel, etc. to the children free of cost.”.

Omission
of arti-
cle 45.

3. Article 45 of the Constitution shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Although the directive principles of State Policy provide for free and compulsory education for all children until they complete the age of fourteen years, it is seen that even after a lapse of so many years, no effective steps have been taken to provide free education to children throughout the country. The parents of majority of children are not in a position to send their children to schools because of their inability to provide facilities to them. The result is that most of the children are forced to leave their studies and go for employment to supplement the meagre income of their families. Since they do not have the basic education, the children are exploited by the employers.

Our country being a welfare State, free and compulsory education should be provided to children, to start with, atleast upto higher secondary level. It is proposed that education should be made a fundamental right so that every child in the country gets free education until he completes the age of eighteen years. In other words, the Bill seeks to give legal effect to what is contained in the directive principles of State Policy.

NEW DELHI;

February 21, 1989.

RAMASHRAY PRASAD SINGH

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that all children shall have the fundamental right to free education until they complete the age of eighteen years. For providing free education, more schools may have to be opened and more teachers to be appointed. Moreover, facilities like supply of text books and stationery, hostel, uniforms, travel, etc. have to be provided to the children free of cost. The Central Government shall have to meet the expenditure of Union territories and shall also have to extend financial assistance to State Governments for carrying out the provisions of this Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

It is estimated that an annual recurring expenditure of about rupees one hundred crores is likely to be involved from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees fifty crores.

SUBHASH C. KASHYAP,
Secretary-General.